

EXHIBIT 1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BARRY LINTON,

Plaintiff

v.

NEW YORK LIFE INSURANCE AND ANNUITY
CORPORATION,

Defendant.

C.A. No. 04-11362-RWZ

To Attorney for Defendant
Levina Wong, Esq.
Ropes & Gray
One International Place
Boston, MA 02110-2624

NOTICE OF TAKING DEPOSITION PURSUANT TO RULE 30(b)(6)

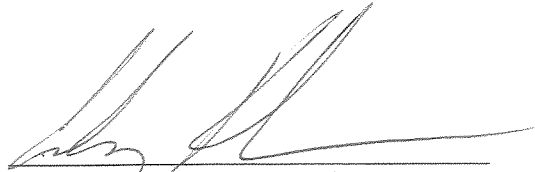
Please take notice that pursuant to the provisions of Rule 30(b)(6) of the Federal Rules of Civil Procedure, plaintiff will take the deposition upon oral examination of the defendant New York Life Insurance and Annuity Corporation at the office of Looney & Grossman LLP, 101 Arch Street, 9th Floor, Boston, Massachusetts, on the 5th day of January, 2005 at 10:00 AM, before a notary public or other officer authorized to administer oaths, and said defendant is required to designate one or more of its officers, directors or managing agents, or other persons who consent to testify on its behalf regarding matters specified below, and through such testimony provide all relevant information regarding such specified matters known or reasonably available to said defendant. The subject matter of which defendant will be examined will be:

- 1) Any and all matters related to the application and purchase of the New York Life Insurance policy by plaintiff;
- 2) Any and all matters related to the terms associated with the telephone authorization form and all such related matters;
- 3) Any and all matters related to the circumstances behind defendant's termination and subsequent renewal of customers ability to transfer funds by telephone;
- 4) Any and all information related to the revenues earned and fees charged under the policy.

The examination by oral deposition will continue from day to day until completed. You are invited to attend and cross-examine.

Dated: December 17, 2004

Respectfully submitted:



Richard J. Grah (BBO #206620)
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